IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 24145 of 2004

Between:

M. Konda Reddy S/o M.V. Ramana Reddy

Hindu, aged about 45 years, Occ: Conductor,

E.No.404483, Devanutipalli village,
Nallacheruvu Mandal, Ananthapur District

..... PETITIONER

AND

1 The Depot Manager, APSRTC., Kadiri Depot, Kadiri,

Ananthapur District
2 The Senior Manager, APSRTC., Ananthapur Region,

Ananthapur

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus or any other appropriate Writ, declaring the proceedings NO.P1/1(20);KDR dt 25-4-1995 of the 1st respondent as illegal, arbitrary in violation of principles of natural justice and in violation of Art 14, and 21 of the Constitution of India, and consequentially direct the respondents to and one annual increment to the pay of the petitioner and pass such other or further orders.

Counsel for the Petitioner: S.SURENDRA KUMAR

Counsel for the Respondents: MR.P.VINAYAKA SWAMY

The Court at the stage of admission made the following:

ORDER:

Declaring the action of the 1st respondent in imposing major penalty vide proceedings No.P1/1(20):KDR dated 25.04.1995, as illegal and arbitrary, the present writ petition is filed.

The petitioner is working as a Conductor in the respondent Corporation. He was charged for unauthorized absence from 13.02.1994 to 15.02.1994. He submitted his explanation. The 1st respondent passed an order on 25.04.1995 without conducting any enquiry by imposing a penalty of deferment of annual increment for a period of one year, which shall have effect on future increments of the petitioner. Hence the writ petition.

2. The grievance of the petitioner is that since it is a major punishment, it cannot be maintained unless it is imposed after holding an enquiry and giving an opportunity to the petitioner. Therefore, he approached this Court through this writ petition to declare that the action of the respondents is illegal and to direct the respondents to add the deferred increment.

3. It is well settled that denial of increments with cumulative effect tantamount to a major penalty, and such penalty cannot be imposed by the disciplinary authority without holding a regular departmental enquiry in terms of relevant service regulations.

4. Having regard to the facts and circumstances of the case, the punishment of major penalty of deferment of annual increment for a period of one year with cumulative effect, imposed by the 1st respondent, can be reduced with slight modification. Therefore, the impugned order of punishment is modified as deferment of annual increment for a period of one year without cumulative effect. The petitioner is not entitled for the difference of the amount if any by virtue of this Order, but he is entitled to get the increment on notional calculation from the date of this Order to which he is entitled.

5. The writ petition is, accordingly, disposed of. No costs.

23.12.2004

dsr

To:

1. The Depot Manager, APSRTC,

Kadiri Depot, Kadiri, Ananthapur District

2. The Senior Manager, APSRTC,

Ananthapur Region, Ananthapur

3. Two CD copies.